

**05-785 CAREY, WARDEN V. MUSLADIN**

DECISION BELOW: 427 F.3d 653 (9th Cir. 2005)

LOWER COURT CASE NUMBER: 03-16653

**QUESTION PRESENTED**

In the absence of controlling Supreme Court law, did the Court of Appeals for the Ninth Circuit exceed its authority under 28 U.S.C. § 2254(d)(1) by overturning respondent's state conviction of murder on the ground that the Courtroom spectators included three family members of the victim who wore buttons depicting the deceased?

Cert. granted 4/17/06